

Message

---

**From:** Mutter, Andrew [mutter.andrew@epa.gov]  
**Sent:** 10/23/2018 8:43:04 PM  
**To:** Benevento, Douglas [benevento.douglas@epa.gov]  
**Subject:** FW: Compilation 10/23/2018

---

**From:** Agarwal, Ilena  
**Sent:** Tuesday, October 23, 2018 2:42:57 PM (UTC-07:00) Mountain Time (US & Canada)  
**To:** AO OPA OMR CLIPS  
**Subject:** Compilation 10/23/2018

**Administration**

[Huffpost: Emails Show 'Cozy' Ties Between EPA's Air Office And Its Chief's Former Firm](#)

[E&E News: Regional office quietly sheds staff](#)

[E&E News: Lead progress touted amid more questions over expert's exit](#)

[The Hill: Trump may formally tap Wheeler to lead EPA](#)

**Ann Arbor lab**

[Federal News Network: EPA tests Ann Arbor lab facility for Legionnaires' disease bacteria after employee falls ill](#)

**Coal Ash**

[Utility Dive: Environmental groups cite hurricane concerns in coal ash suit against EPA](#)

[Daily Caller: ENVIRONMENTALISTS SUE TRUMP FOR ROLLING BACK ANOTHER OBAMA-ERA RULE TARGETING COAL](#)

[Bloomberg: EPA Can Beat Court Review on Chemical Plant Rollback: Official](#)

[E&E News: Cruz slams 'pseudoscientific theory' in remarks to oil industry](#)

**Methane**

[E&E News: White House Pressured EPA on Changes to Methane Leak Rule](#)

[Reuters: Iowa lawmaker urges EPA to speed up rule expanding ethanol sales](#)

[Environmental Defense Fund: New EPA data confirms methane emissions not declining fast enough](#)

[Pittsburg Post Gazette: What Trump's EPA chief won't tell you at tomorrow's shale conference](#)

**Emissions:**

[PRI: Kavanaugh's track record on environmental law favors business over climate change protections](#)

[Salt Lake Tribune: Office and retail space, along with thousands of housing units, to rise at once-polluted Sharon Steel site in Midvale](#)

[Environmental Working Group: Asbestos Imports Surge as Trump White House Moves to Keep Deadly Carcinogen Legal](#)

## Huffpost: Emails Show 'Cozy' Ties Between EPA's Air Office And Its Chief's Former Firm

*Bill Wehrum pushed industry-friendly policies as he and his staff stayed in contact with his old corporate law firm.*

[https://www.huffingtonpost.com/entry/bill-wehrum-epa-lobbying-hunton\\_us\\_5bcdeb2ee4b055bc9483285f](https://www.huffingtonpost.com/entry/bill-wehrum-epa-lobbying-hunton_us_5bcdeb2ee4b055bc9483285f)

By Itai Vardi- October 23, 2018

A trove of emails obtained by HuffPost sheds light on the ongoing relationship between the Environmental Protection Agency's air quality chief, Bill Wehrum, and people at his former law and lobbying firm. This latest instance of Trump appointees communicating with previous employers highlights the extent to which corporate interests have gained access to crucial government decision-makers and raises questions about the usefulness of President Donald Trump's ethics rules.

Since he became assistant administrator of the EPA's Office of Air and Radiation last November, Wehrum has been criticized as the embodiment of regulatory capture.

Wehrum, a seasoned lawyer and lobbyist at the firm Hunton Andrews Kurth, previously worked at the EPA during the George W. Bush administration. Upon returning to private practice, he fought the agency on the energy industry's behalf. His clientele included such powerhouses as ExxonMobil, the American Petroleum Institute, Koch Industries, Dominion Energy and Enbridge.

Now, he's back at the EPA and seeking to erase some of the hallmarks of Obama-era regulation of air pollution — an agenda that will benefit many of Wehrum's former clients.

A month after rejoining the EPA, Wehrum was already visiting Hunton's Washington offices to lay out his plan for regulatory reform before the Utility Air Regulatory Group, a onetime client, and other eager listeners. The Utility Air Regulatory Group is a trade association that speaks for major energy companies and utilities such as American Electric Power and Southern Company.

But the relationship between Wehrum and his former colleagues at Hunton did not end there, according to the emails obtained by HuffPost through an open records request. Those messages show that both sides continued to communicate regularly after Wehrum's transition to the EPA. This, despite his ethics pledge not to be involved in matters concerning his former firm and clients. Last month, under growing pressure to clarify his relationship with Hunton, he signed a formal recusal letter listing numerous ex-clients that he vowed not be involved with in "particular matters."

Critics have pointed to many instances in which Trump's "drain the swamp" ethics rules have proved to be toothless. The rules, announced shortly after the president's inauguration, have repeatedly been ignored or circumvented by the granting of waivers.

Most of the emails between Wehrum and Hunton employees that were uncovered by HuffPost have been heavily redacted by the EPA, which cited the "personal information" exemption. But the unredacted communications provide a window into an ongoing relationship between the official and his former colleagues.

Hunton lawyers reached out to Wehrum often, looking to touch base and meet, attempting to glean information about EPA decisions, and ascertaining expected dates for future regulations.

While several exchanges show more casual interactions between Wehrum and lobbyists for companies like ExxonMobil and Koch Industries, others reveal former colleagues seeking inside information. In June, Hunton attorney David Landin — who previously lobbied for one of Wehrum’s former clients, the National Stone, Sand and Gravel Association — emailed Wehrum to “catch up” on asbestos regulations, including a “problem formulation document; systematic review document; transparency rule.” Landin added, “NSSGA wants to be supportive.”

When Wehrum was at Hunton, he and Landin lobbied together for the National Stone, Sand and Gravel Association on asbestos regulations. Now the EPA is in the midst of refining how it evaluates the risks posed by asbestos. The proposed new rule has come under criticism, including by scientists within the EPA, because it could potentially open the door for further uses of the known carcinogen in consumer products.

In an email earlier this year, under the subject line “Strengthening regulatory transparency rule,” Landin asked Wehrum, “How do I best get insight of what is driving this and the goals?”

On at least two other occasions, Landin tried to gain information from Wehrum about the EPA’s upcoming inventory of all chemical substances manufactured or processed in the U.S. (including imports) that are covered under the Toxic Substances Control Act. The agency updates the list, which plays an important part in regulating toxins, every six months. “Any insights that can be shared?” he asked Wehrum in one email. In another, Landin requested that Wehrum facilitate an “informal introduction” between him and other EPA officials.

Public interest advocates who were shown the emails acknowledge that loopholes in the Trump administration’s ethics rules leave a lot of gray area for assessing whether officials are technically acting properly. But even so, they say that Wehrum’s actions were highly problematic.

Even if Wehrum is somehow abiding by the narrow definitions of his recusal letter, the appearance of these cozy relations is simply wrong,” said Eric Schaeffer, director of the Environmental Integrity Project, an EPA watchdog group. “And it’s a major part of what people don’t like about Washington. This is an unusual amount of [email] traffic and I would expect Wehrum to put distance between himself and his former colleagues, to let them know that he’s now obligated to serve the public.”

Craig Holman, a lobbyist for the public interest group Public Citizen, agreed. “Those emails are very revealing of the extent of the close working relationship between the Hunton firm and Wehrum,” Holman told HuffPost. “Bill Wehrum has shown considerable disregard for conflicts of interest generally and Trump’s own unenforceable ethics rules in particular. He is supposed to recuse himself from matters affecting his former clients within the previous two years of appointment.”

In August, Wehrum told The New York Times that he was “scrupulously complying” with the ethics rules.

“Since joining the EPA, Mr. Wehrum has understood and abided by ethics rules,” said an agency spokesperson in response to HuffPost’s request for comment. “He has screened participants in meetings held at EPA and invitations to events external to EPA and will continue to do so.”

In regards to Wehrum’s talk at his former law firm’s office, the spokesperson said, “He spoke to a group that included former clients in the audience and also included many other interested parties which follow ethics rules and the Trump pledge.”

The emails also reveal that Hunton’s attempts at influence peddling extend beyond Wehrum to other top officials in the Office of Air and Radiation. Since the beginning of the year, the firm’s attorneys have arranged several meetings between air office staffers and Hunton clients — including the Utility Air Regulatory Group and the Air Permitting Forum, which also works to advance the interests of major utilities and energy companies.

Hunton Andrews Kurth did not respond to HuffPost's request for comment.

A prominent figure in these contacts is Wehrum's senior adviser Mandy Gunasekara, a political appointee and former Republican Senate staffer.

In March, Gunasekara sent two Hunton lawyers a new EPA memo that was embargoed until the following day. The memo, titled "Project Emissions Accounting Guidance," effectively loosened the regulations for permitting new sources of emissions from power or industrial plants. That has long been an industry goal, including for the Electric Reliability Coordinating Council, a Hunton client that represents the interests of power generating companies.

Wehrum said at the time that the changes reflect a "common-sense interpretation" of the rules that will "remove unnecessary administrative barriers to the construction of cleaner and more efficient facilities."

In April, Hunton attorney Colleen Doyle asked Gunasekara for "any news" on the "source aggregation issue" on behalf of building materials supplier Lehigh Hanson, a former Wehrum client. Her message referred to the industry's push for new rules to raise the bar set in the Clean Air Act for when emission sources must be "aggregated" and counted as a single source.

Gunasekara promised Doyle that she would "check on the status and follow up." By April 30, Wehrum had announced that the rule revision was underway.

The emails similarly detail Hunton's lobbying on behalf of another former Wehrum client, the Brick Industry Association. Three months before his nomination to become part of Trump's EPA, Wehrum had requested a meeting with the agency to discuss an extension for compliance with rules limiting mercury and other toxic emissions from facilities used by the brick industry. The meeting, he wrote, was to determine how to "lessen" the burden on the industry.

In February this year, Hunton lawyers brokered a meeting of Gunasekara and other officials with representatives of the Brick Industry Association. "We really need immediate relief from the December compliance deadline," wrote an association representative. Keith Barnett, an official in the air office, responded that the EPA would "discuss these options."

Four months later, the brick industry got its relief. In a memo from the air office's Penny Lassiter, the EPA instructed its regional offices to consider granting the brick industry compliance extensions on a case-by-case basis.

## E&E News: Regional office quietly sheds staff

<https://www.eenews.net/stories/1060103945>

Kevin Bogardus, Monday, October 22, 2018

EPA trimmed employees from a regional office and in other departments this year as the Trump administration continued its push to downsize the agency.

Employees in EPA's San Francisco-based Region 9 were offered buyout and "early out" options over the summer, according to documents obtained by E&E News. Staff working in Las Vegas offices that were slated to close earlier this year were also made offers to leave, according to an EPA spokeswoman.

Eight staffers in the Region 9 office accepted buyouts earlier this year; another 12 accepted such offers in Las Vegas.

Wendi Shafir, one of the eight Region 9 employees who took buyouts, told E&E News in an interview that two EPA programs she worked on — one for preventing pollution, the other managing sustainable materials — had been zeroed out in President Trump's budget request.

"I took this buyout because I was feeling less and less able to do my job," said Shafir, an environmental engineer who worked at EPA for 27 years.

"It is very disheartening to have the two programs you work not be in the president's budget," she said. "And while Congress gave funding for those programs, it seems that they don't have the support of this administration, considering that they were not in the president's budget for the past two years."

Shafir felt she could make better use of her environmental protection skills elsewhere, she said.

The cuts came during a change of leadership at EPA as former Administrator Scott Pruitt — known to boast of the agency's shrinking workforce — stepped down in July after battling a multitude of ethics allegations. Acting Administrator Andrew Wheeler is now at the helm and is leading a reorganization effort that has left some employees worried about their future at the agency.

But unlike a more widespread round of buyouts EPA offered last year — which targeted every program and regional office — this year's buyouts gained little notice outside the agency. Targeted staffers could take an incentive payment of up to \$25,000 to leave the agency or choose early retirement instead if they were eligible.

### Shrinking regional shop

Like other program and regional offices in EPA, Region 9 has seen its workforce go into decline, with 675 employees now working in the branch. In late 2011, the office had 853 employees — close to 200 more than it does now, according to a shutdown planning document released that year.

"We are also shrinking not just because of the buyouts. People are retiring or are just leaving," said Bethany Dreyfus, acting president of American Federation of Government Employees Local 1236, which represents EPA Region 9 employees.

A memo from Mike Stoker, EPA's Region 9 administrator, said the branch wanted to take advantage of buyouts "to help ensure that our workforce possesses the mix of skills most appropriate for carrying out our mission."

"This decision was not made lightly; we value our dedicated employees and appreciate the work we perform on behalf of the American people," said the memo, dated this July.

It noted further that the decision to take a buyout, formally known as a "voluntary separation incentive payment," or accept early retirement, or "voluntary early retirement authority," was "entirely voluntary."

"No one will be pressured to submit an application, and no one is required to accept an offer. You are urged to carefully consider the information provided and your personal situation prior to making a decision," it said.

A PowerPoint presentation explaining the buyouts indicated they would help create "opportunities to reduce and restructure positions," facilitating the region's efforts to improve "staff-to-supervisory ratios" in its Environmental Management Division.

Employees had to apply for their buyout offers between July 31 and Aug. 6. If approved, they had to leave EPA no later than Sept. 1.

Of 18 positions targeted for buyouts in Region 9, 16 were based in its San Francisco office, including some for science positions, according to records. The remaining two were for an environmental scientist job in Honolulu and an information technology specialist position in Richmond, Calif.

'Math was in my favor'

Some took buyouts to speed up their retirement plans.

Charles O'Quinn, a supervisory information technology specialist who served more than 20 years at EPA, said he had planned to retire at the end of 2018. Instead, he took a buyout and left the agency at the end of August.

"I just ran the numbers. At the end of the day, I get four months of my life back and some additional money. The math was in my favor. It came down as simple as that," O'Quinn said.

Information about the Region 9 buyouts was hard to come by.

Union leaders there told E&E News that they had sought documents from management on the buyouts offered this year in the Pacific Southwest branch. Managers didn't provide that information to union officials. Instead, they were only able to obtain records related to the buyouts from employees who were targeted for the offers.

Union officials in Region 9 also expressed worry that this year's buyouts will further deplete resources for the region.

"They wanted to reduce staff, and this is one method they used to get people to leave," said Mark Sims, president of the EPA Unit Engineers and Scientists of California Local 20, International Federation of Professional and Technical Engineers. "I think the general concern is, 'Are we going to have adequate staff here in Region 9 to accomplish the mission of the agency?'"

EPA spokeswoman Enesta Jones told E&E News that senior management in Region 9 had reviewed "workforce demographics" to determine what positions should be considered for "workforce reduction and reshaping to accommodate changes in staffing levels and program priorities."

Region 9 then requested the buyout authority to reduce supervisory jobs as well as "eliminate and restructure highly-graded non-supervisory positions" and "reduce and restructure various positions to meet decreased staffing levels."

Reagan-era staff levels

Acting EPA Administrator Andrew Wheeler met with Region 9 staff in San Francisco earlier this month. EPA

While Region 9's buyouts were in the single digits this year, they are comparable to what the branch underwent last year. In the summer of 2017, EPA proposed buyouts across the agency in its regional and program offices, making 1,227 offers, including 23 for Region 9 (Climatewire, July 17, 2017).

Consequently, 11 employees in the Pacific Southwest branch last year took a buyout. EPA data obtained by E&E News under the Freedom of Information Act showed that 372 employees in total took buyouts offered in that round (Greenwire, Nov. 22, 2017).

Outside of the buyout offers, hundreds of other EPA employees have left the agency. EPA's staffing is now at levels not seen since the Reagan administration.

By Sept. 24 this year, EPA said it had 13,981 permanent and temporary employees, according to its latest contingency plan. At its staffing peak during the Clinton administration, EPA's workforce was greater than 18,000.

Wheeler was in California earlier this month, where he had an all-hands staff meeting with Region 9 employees. He also met with union leaders there, who said they discussed staffing concerns with the acting chief, including how a proposed realignment of regional offices to match headquarters functions would proceed.

"We emphasized in order to do that, you actually need to have people in place to do the work for those offices," Dreyfus said. "We don't know how it is going to roll out and how that structure is going to work."

Worries about Trump's plans for the agency have affected morale at EPA, including in Region 9. O'Quinn said, "People are a bit anxious."

"Morale was not the greatest, because there has been so much change and so much uncertainty. There has not been the greatest communication from headquarters to the regions," he said. "It's hard to know where your budget is coming from. It's hard to know how you're structured."

Shafir, who also took a buyout, said, "Morale in my programs [was] not very good, even though my colleagues were doing and continue to do great work."

#### Leaving Las Vegas

EPA spokeswoman Jones also said that the agency offered buyouts to staff working in Las Vegas.

The agency proposed 32 buyouts for Office of Research and Development employees based in Las Vegas, 10 of which were accepted. In addition, Office of Administration and Resources Management employees in the Las Vegas area were made 17 buyout offers, two which of were accepted.

"The buyouts were offered as part of the EPA's space consolidation efforts, which are focused on consolidating functions and services in government-owned rather than leased space," Jones said.

The buyout offers fit with EPA's plan to reduce its footprint.

Earlier this year, EPA said it would close down operations for research office staff there. In addition, human resources employees were also expected to be out. With EPA's Las Vegas presence coming to an end, agency staff could choose to relocate to another EPA-owned facility (Greenwire, Feb. 9).

EPA employees at the time had credited the move to shutter the agency's Las Vegas operations to an Obama-era initiative to consolidate federal office space.

"The drivers behind the decision are the continued pressure to reduce the amount of federally leased space by consolidating operations into federally owned space and to reduce our overall operational costs moving forward," said Tim Watkins, director of EPA's National Exposure Research Laboratory, in an internal email.

The Trump administration has pushed to scale down government agencies, including EPA. The president also proposed in a Cabinet meeting last week that agencies cut their budgets by 5 percent next year (Greenwire, Oct. 17).

Nevertheless, EPA doesn't currently plan to offer any additional rounds of agencywide buyouts, Jones said.

Those who took buyouts this year have moved on.

Shafir said she now plans to provide consulting for other levels of government, nonprofit groups and businesses. She spoke at a conference last week on reducing food waste but not on EPA's behalf.

"I have a lot of information in my brain, a lot of connections, that I don't want to go to waste. There is plenty of work to be done," she said.

O'Quinn is enjoying retirement from the agency.

"I'm on my own time, taking on work around the house and taking care of myself, just figuring out the next steps of my life," he said. "I'm stress-free."



## Federal News Network: EPA tests Ann Arbor lab facility for Legionnaires' disease bacteria after employee falls ill

<https://federalnewsnetwork.com/workforce/2018/10/epa-tests-ann-arbor-lab-facility-for-legionella-pneumonia/>

By Jory Heckman- October 22, 2018 6:48 pm

The Environmental Protection Agency is warning several hundred employees at the National Vehicle and Fuel Emissions Laboratory (NVFEL) in Ann Arbor, Michigan, about a confirmed case of Legionnaires' disease, but advising employees to still report to their usual workstations as it awaits test results.

Leila Cook, the associate director of the Office of Transportation and Air Quality at the NVFEL, told staff in an email on Friday, Oct. 19 that one facility employee was diagnosed with Legionella pneumonia, better known as Legionnaires' disease.

"Although the source of the exposure is not known, it is possible that the exposure occurred at the NVFEL," Cook wrote in the memo. "Environmental sampling has been conducted at the facility, however, results will not be available for several weeks."

According to the Centers for Disease Control, symptoms for Legionnaires' disease usually begin two-to-10 days after being exposed to the Legionella bacteria. However, the CDC advises people to watch for symptoms about two weeks after exposure.

Several EPA employees confirmed to Federal News Network that they received the email notification, but one worker said he learned about the incident secondhand.

"Most employees (including me) were not notified," the employee wrote in an email. "There has been no general notification from management."

Rather, the employee learned of the memo from a coworker, and then forwarded the message to the local American Federation of Government Employees chapter that represents EPA employees in the Great Lakes region.

"I'm not a conspiracy person, but I think managers in Ann Arbor wanted to keep it as quiet as possible," the employee added.

About 450 people work in the National Vehicle and Fuel Emissions Laboratory and its office building complex.

Mike Mikulka, the president of AFGE Local 704, which represents about 900 agency employees in EPA Region 5, confirmed that he sent out an all-hands email on Monday morning, shortly after 11 a.m.

Mikulka added that the memo from Cook, which he forwarded to regional EPA employees, was likely sent "out of an abundance of caution."

Erin Birgfeld, the director of communications at the Office of Transportation and Air Quality, verified Monday that one person who works at the NVFEL lab had a confirmed case of Legionella pneumonia.

"During the week of Oct. 15, we held two all hands meetings to educate staff about the illness," she said in an email. "We also are providing information to staff via email and through communications with supervisors," she said.

While the EPA could not confirm if the lab is the source of the illness pending test results, Birgfeld said the agency has been working closely with local public health officials to take the proper actions to protect personnel and guests.

“We also are, out of an abundance of caution, reaching out to those who visited the lab building in the last few weeks via email to share information with them as well,” Birgfeld said.

According to the memo written by Cook, Legionella bacteria “rarely cause illness,” and don’t typically spread person-to-person. Rather, the disease is caused by breathing in droplets of water that contain the bacteria.

“The public health agency officials that we are working with have not advised us to quarantine any areas of our space, or tell staff to change their work schedule or location in any way,” Birgfeld said. “We have taken additional precautions, however, including turning off the showers and the car wash in the facility since those areas produce aerosolized water.”

The employee diagnosed with Legionella pneumonia has since recovered and works in the facility’s laboratory building.

“The majority of staff work in the office building, a subset of the employees who are based in the office either attend meetings or walk through the laboratory in the course of regular business,” Birgfeld said. “This is why we have shared all information with all staff including those stationed in D.C.”

The EPA has not learned of any new cases of Legionella pneumonia since the first case was reported to the agency by local health authorities.

“We are working with local public health agencies who are monitoring the situation,” she said.

Birgfeld added that the EPA had a qualified environmental testing firm obtain samples from the facility on Oct. 17. The agency expects to get test results back by Nov. 1.

Based on advice from the Washtenaw County Public Health Department, the EPA urges employees that exhibit symptoms to see their health care providers.

The CDC lists the following as symptoms of Legionnaires’ disease:

- Cough
- Shortness of breath
- Fever
- Muscle aches
- Headaches

## Utility Dive: Environmental groups cite hurricane concerns in coal ash suit against EPA

<https://www.utilitydive.com/news/environmental-groups-cite-hurricane-concerns-in-coal-ash-suit-against-epa/540306/>

Catherine Morehouse- Oct. 23, 2018

### Dive Brief:

Six environmental groups filed a lawsuit on Monday against the Environmental Protection Agency (EPA) and acting administrator Andrew Wheeler over a final rule that gives states more authority over the management of coal ash sites and delays closure of some pits.

The groups, in part, attribute the lawsuit to recent coal ash spills related to Hurricane Florence, which they say show utilities are not taking the structural integrity of their storage sites seriously enough.

The EPA's final rule in July rolled back the Obama administration's coal combustion residual (CCR) rule, which was triggered in part by a massive 2008 spill from a Tennessee Valley Authority (TVA) coal plant. The U.S. Court of Appeals for the D.C. Circuit in August ruled those Obama-era regulations didn't go far enough in protecting consumers against unlined coal ash pits.

### Dive Insight:

Hurricane season has highlighted the vulnerabilities of coal ash pits that remain uncapped and close to waterways, and environmentalists say utilities should have cleaned up their sites long ago.

"The risk that legacy impoundments and insufficiently lined coal ash ponds pose is too great to let another hurricane season go by without addressing the problem," Thomas Cmar, deputy managing attorney for the coal program at Earthjustice, said in a statement.

"Having coal ash lagoons on the waterfront and capping coal ash in place in unlined riverfront pits is irresponsible and dangerous," Frank Holleman, a senior attorney at the Southern Environmental Law Center, told Utility Dive in September, before Florence hit.

At the time, Duke Energy, the primary focus of Holleman's concern in North Carolina, denied the coal ash ponds posed a threat to the surrounding waterways.

Days later, more than 2,000 cubic yards of coal ash spilled from the utility's storage site at its Sutton Plant, infiltrating a nearby recreational lake that Duke also uses as a cooling pond.

A dam breach at that lake later leaked the ash into the nearby Cape Fear River. How much that spill contaminated the river has been a point of contention between Duke Energy, the state of North Carolina and local environmental groups, including the Waterkeeper Alliance and Earthjustice, two plaintiffs in the suit against the EPA.

The September storm also flooded three coal ash sites near Duke's shuttered H.F. Lee coal plant, which leaked coal ash during Hurricane Matthew in 2012 as well. During Florence, Paige Sheehan, Duke's director of policy and environmental communications, told Utility Dive the utility "didn't want folks to be concerned with public safety" and said they were doing "more to close coal ash basins at speed, scope and scale" than any other utility.

The Trump Administration's final rule gives utilities more time to clean up their coal ash ponds, which were previously required by federal law to be transitioned to dry, lined storage sites by April 2019.

Utilities have already been "kicking and screaming" to transition their sites to dry storage for years, said Holleman. "It's simpler and cheaper to leave [coal ash] in the unlined pits," he added.

Monday's lawsuit comes in the midst of another court case in Tennessee, whereby 30 workers are dead and 200 more are sick or dying of contamination from cleaning up TVA's 2008 coal ash spill.

Those who are still able to testify are alleging the utility and the firm TVA hired to oversee the cleanup denied workers protective gear while cleaning up the sites. Testimony from one of the workers says TVA didn't want the public to perceive the site as "dirty" and didn't want to "give the appearance there [was] an issue."

The six groups suing the EPA include the Sierra Club, the Waterkeeper Alliance, Clean Water Action, Prairie Rivers Network, Hoosier Environmental Council and Heal Utah.

An EPA spokesperson said the administration is unable to comment on pending litigation.

## E&E News: Lead progress touted amid more questions over expert's exit

<https://www.eenews.net/eenewspm/stories/1060104029/search?keyword=EPA>

Ariel Wittenberg- Monday, October 22, 2018

Lead paint on an old tool company factory near Pigeon Cove MA. Photo credit: Ben W/Flickr

EPA is circulating a pamphlet on lead poisoning prevention. Ben W/Flickr

The Trump administration is touting its work to protect kids from lead exposure as EPA continues to face criticism over placing its top children's health expert on leave last month.

To celebrate "National Lead Poisoning Prevention Week," EPA released today a new 27-page pamphlet describing the agency's "most recent" and "ongoing activities" related to reducing childhood lead exposure, including both programs and grants.

Some of the programs highlighted in the pamphlet — like the popular Water Infrastructure Finance and Innovation Act grants that communities can use to remove lead pipes — are well-known. Others are less well-publicized, like a \$25,000 grant to Alameda County, Calif., to train municipal workers about how to respond to complaints about lead in homes.

The only regulatory action mentioned in the pamphlet is a lead dust standard for homes proposed in June to comply with a court deadline. Advocates have criticized the rule for being ineffective.

"Reducing lead exposure, particularly among children, is a top priority for EPA," acting Administrator Andrew Wheeler said in a statement.

He said the pamphlet is meant to "increase public awareness of the EPA programs and grants available to reduce lead exposure."

Wheeler also said the agency is "in the process of completing several important actions to combat lead poisoning, such as publishing the new joint federal lead strategy, strengthening the dust-lead hazard standards, and overhauling the lead and copper rule for the first time in over two decades."

The pamphlet does not mention any plans to revamp drinking water lead standards, which the Trump administration now plans to propose in February after delaying the rule for two years. EPA's press office did not respond to questions about the drinking water or dust standards.

Of the lead strategy, the pamphlet says only that it is being developed "to improve the effectiveness and efficiency of the federal government in reducing children's lead exposures and lead-related health risks."

"As EPA works with its partner agencies to better coordinate activities and finalize the strategy, the agency continues its efforts to reduce lead exposures as described in this document," it says.

The pamphlet's release comes as questions continue to swirl about whether disagreements over the federal lead strategy contributed to EPA placing Office of Children's Health Protection Director Ruth Etzel on leave.

EPA has said the decision was based on "serious reports made against her by staff regarding her ability to effectively lead the Office of Children's Health." But Etzel has said she believes the decision was related to disagreements about whether the lead strategy should address regulatory needs (Greenwire, Oct. 19).

Today, Sen. Tammy Duckworth (D-Ill.) wrote a letter to Wheeler asking for transparency about its decision.

In her letter, Duckworth says a successful strategy should include a call to revamp the Lead and Copper Rule, plans for identifying and removing lead pipes across the country, and a request of additional funding from Congress.

While EPA held a "lead summit" about the potent neurotoxin last September, Duckworth writes that her office has "not yet received an update from the administration on its efforts to address this urgent public health crisis."

"In fact, the only meaningful action EPA appears to have taken is forcing the Children's Health director, who should be part of the agency's efforts to reduce lead exposure and implement a lead strategy, to indefinitely leave work while receiving full pay and benefits," she wrote.

EPA's press office did not respond to a request for comment about Duckworth's letter.

## E&E News: Cruz slams 'pseudoscientific theory' in remarks to oil industry

<https://www.eenews.net/energywire/stories/1060104063/search?keyword=EPA>

Edward Klump- Tuesday, October 23, 2018

HOUSTON — Sen. Ted Cruz (R-Texas) criticized the aims and cultural ascendance of the climate movement yesterday while praising an oil and gas industry that faces festering opposition to fossil fuels.

"Climate change," Cruz said, is "the perfect, I believe, pseudoscientific theory because it could never be disproven."

Cruz spoke at a Texas Oil & Gas Association energy forum about the benefits of the industry, including the role of shale. The senator also took questions and blasted his Senate challenger, Rep. Beto O'Rourke (D), as not in line with the oil and gas business.

Cruz touted his own opposition to the Paris climate accord and support for fewer regulations and lower taxes.

The climate remarks were in sharp contrast to a recent report from the U.N. Intergovernmental Panel on Climate Change that warned of the need to limit warming (Climatewire, Oct. 9). The comments also followed a recent debate clash where O'Rourke said man-made climate change is a fact and called for rejecting a false choice between oil and gas and renewables (Climatewire, Oct. 17).

At one point yesterday, Cruz called attendees "heroes" and said every gallon of U.S.-produced oil weakens places such as Russia, Iran and Venezuela. Earlier, CEO Mike Sommers of the American Petroleum Institute said the industry needs to talk about the benefits of its work for human civilization.

Cruz argued that what schools are teaching on climate change is "very much indoctrination of the kids." He said the climate is always changing. He argued that predictions have been repeatedly wrong and that a goal is stopping oil and gas.

Too often the matter is treated like religion instead of science, Cruz said, suggesting that scientists should be questioning the theory and looking for more data.

"The solution for climate change is the same as global cooling and global warming, which is massive government control of the economy, the energy sector and every aspect of our lives," he said.

Cal Jillson, a professor of political science at Southern Methodist University, said Cruz has argued that Texas' economy would be threatened by potential regulations and higher taxes under Democrats. But Jillson questioned downplaying the seriousness of global warming even in a venue where that position may be applauded.

Human activity related to warming is what's at issue, Jillson said, not natural swings over time. He noted that some major energy companies support global climate action. "No one denies that oil and gas is critical to the Texas economy," Jillson said in a phone interview, "but there should be a policy discussion on whether the conduct of the energy industry in Texas and around the world is contributing to global warming."

Houston Mayor Sylvester Turner has stated in the past that climate change is real, including at the Texas Tribune Festival a few weeks ago (Energywire, Oct. 1). The city also has announced work on a climate action plan.

Yesterday, Turner made sure to take a collaborative tone, saying he's proud to be the mayor of the energy capital of the world and noting the contributions of energy companies. The city has been rebuilding in the aftermath of widespread flooding last year, and the mayor talked about work on resilience.

Houston is doing well in large part because of the oil and gas industry's success, Turner told the crowd. He said the city would seek win-win outcomes on issues around sustainability and a clean environment.

"When this industry is healthy and thriving and doing well, this city takes off," Turner said.

A mayor and 'positive relationships'

Turner later told E&E News he views attendees of the Texas Oil & Gas Association energy forum as allies.

"If you establish positive relationships where people know you're not anti- — you're not anti-the industry — and you want to be collaborative and you want to work in partnership, then people are more inclined to sit down, more inclined to work with you," said Turner, a former Democratic state lawmaker.

He said many Houstonians don't want to get out of their cars and trucks, meaning a lot of people contribute to climate issues in that way.

Jillson said it's fine to be nice, and it's not unusual to tailor remarks to an audience. But he suggested that Democrats look to articulate the scientific consensus.

"If you're only willing to speak candidly to people who already share your view and are afraid to speak to people who don't yet share your view, you're not likely to convince them," Jillson said.

Cruz, meanwhile, said the industry needs to counteract a "misinformation and propaganda effort." He said, "We're getting killed — killed — in the culture." He cited the role of areas such as education, journalism and entertainment.

"The left has those commanding heights and uses it to push the agenda that all of you are bad," he told the audience. "On the right, look, the best and the brightest, what do they go do? They go make money."

Cruz brought up O'Rourke's past vote for a proposed \$10-a-barrel tax on oil. And the senator talked about the Paris climate accord, saying he made the case to President Trump that it was bad for Texas but that O'Rourke has supported it. Cruz's appearance yesterday morning was in advance of a rally Trump held last night in Houston.

The senator argued that George Mitchell had the biggest impact on reducing greenhouse gases in the history of humanity. Mitchell is considered a pioneer in the use of hydraulic fracturing that led to a surge in U.S. production of natural gas, which is cleaner than coal but still a fossil fuel.

Cruz also noted O'Rourke's out-of-state popularity. He labeled the challenger's roughly \$38 million fundraising haul in a quarter as "dangerous." Cruz said it's important that people show up to vote if they want to see an economic boom continue.

There's a role for the federal government in ensuring there is clean air and water, Cruz told reporters. But he said EPA got off track during the Obama administration because it was governed by people "just trying to shut down industry and development and jobs."

The senator told the audience he doesn't expect oil and gas to be the energy source forever, but he does expect future Texans to continue to lead the way.



"At the end of the day, y'all aren't good at oil or gas," Cruz said. "You're good at being energy entrepreneurs."

So who's going to win in November, Cruz or O'Rourke?

Jillson said he isn't ruling out a Democratic upset, but he's not predicting it.

"If you had to bet the rent money, you'd probably want to bet it on Cruz," he said.

## E&E News: White House Pressured EPA on Changes to Methane Leak Rule

*The proposed changes would create costs savings for fossil fuel companies while increasing methane emissions*

<https://www.scientificamerican.com/article/white-house-pressured-epa-on-changes-to-methane-leak-rule/>

By Maxine Joselow- October 23, 2018

White House officials urged EPA to make changes to an Obama-era methane rule that would maximize cost savings for the oil and gas industry while allowing the release of more planet-warming emissions, government documents show.

The exchange came this past spring and summer, as EPA was working to relax a 2016 rule stipulating how frequently oil companies must check for and repair methane leaks.

The White House Office of Information and Regulatory Affairs repeatedly pressured EPA to relax inspection requirements, according to hundreds of pages of documents posted last week on Regulations.gov and first reported by Bloomberg.

But some EPA officials worried that easing the requirements would allow more methane to enter the atmosphere. Methane is roughly 86 times more potent as a heat-trapping gas than carbon dioxide.

In May, EPA officials presented an interagency working group with a slideshow detailing their initial proposal for relaxing the Obama administration's New Source Performance Standards for new and modified oil and gas facilities.

The proposal would have saved the industry an estimated \$246 million over six years.

In subsequent correspondence, OIRA officials pushed EPA to increase the projected cost savings to \$484 million.

The OIRA officials argued that greater cost savings could be achieved through yearly compressor station inspections, rather than quarterly inspections.

Less frequent inspections were on the wish list of several oil and gas industry groups. Indeed, "monitoring frequency" was the first item on the agenda of a May meeting between Trump administration officials and representatives of the American Petroleum Institute, Chevron Corp., Royal Dutch Shell PLC and other oil companies.

EPA initially pushed back on OIRA's suggestions, noting that they could double the amount of methane entering the atmosphere.

"While Option 3 provides for the highest net benefits, it also provides the highest amount of forgone emission reductions," EPA said.

By July, EPA had begun implementing some of OIRA's suggested changes, the documents show.

In September, EPA released its proposed revisions to the Obama-era methane rule, which required industry to monitor wells on an annual basis and low-production ones every other year (Greenwire, Sept. 11).

The revelations come as the Trump administration touts the cost savings from its deregulatory agenda.

The White House on Wednesday unveiled its fall 2018 regulatory plan, which says that federal agencies achieved \$23 billion in net regulatory cost savings in fiscal 2018. A senior administration official, in a conference call with reporters, described the past two years as an "amazing turnaround" (Greenwire, Oct. 17).

Amit Narang, regulatory policy advocate with Public Citizen, said the documents show that the White House is bent on helping industry at the expense of public health and the environment.

"These documents show very clearly that OIRA only had maximizing cost savings to the oil and gas industry in mind, and really wasn't concerned about the massive amount of methane emissions it would lead to," Narang said. "That will have an effect not only on climate change, but on the health of Americans."

EPA is now soliciting public comments on the methane proposal through Dec. 17. A final rule is expected next year.

The documents underscore the need for transparency regarding communications between agencies and the White House regulatory affairs shop, sources said.

"This exchange demonstrates the importance of transparency in administrative policy development," Janet McCabe, acting EPA air chief under former President Obama, said in an email.

Not all federal agencies are required to publicize their communications with the White House. EPA is required to do so through a special provision in the 1990 amendments to the Clean Air Act. That's why the documents about the methane rule were posted online at Regulations.gov, where they were accessible to E&E News and other media outlets.

"All of this is coming out because of this really unique provision in the Clean Air Act," Narang said. "The provision says that if EPA is doing regulations under the Clean Air Act and OIRA is reviewing those regulations, all of those communications and changes need to be included in the docket."

James Goodwin, senior policy analyst with the Center for Progressive Reform, echoed those sentiments.

"This shows the importance of whoever included those provisions in the Clean Air Act amendments," Goodwin said. "And that's exactly what they had in mind, because agencies weren't disclosing stuff from OIRA review before that."

New legislation could affect the transparency of the OIRA review process.

Sen. Elizabeth Warren (D-Mass.) this summer introduced the "Anti-Corruption and Public Integrity Act," S. 3357.

Although the bill is largely focused on ethics in law enforcement, it also contains a small regulatory reform section aimed at increasing "disclosure of intergovernmental rule changes."

## PRI: Kavanaugh's track record on environmental law favors business over climate change protections

<https://www.pri.org/stories/2018-10-23/kavanaugh-s-track-record-environmental-law-favors-business-over-climate-change>

Writer Adam Wernick- October 23, 2018 · 10:45 AM EDT

Brett Kavanaugh US Supreme Court Associate Justice Brett Kavanaugh speaks during his ceremonial public swearing-in, in the East Room of the White House in Washington, DC, Oct. 8, 2018. Credit: Jonathan Ernst/Reuters  
Newly confirmed Supreme Court Justice Brett Kavanaugh, who brings a long record of pro-business and anti-regulatory opinions from his tenure on an appeals court, will likely tip the high court's balance in favor of narrower interpretations of environmental law.

Kavanaugh's confirmation centered more on allegations of sexual assault and temperament than his judicial record. But a close look at his rulings during his dozen years on the DC Circuit Court of Appeals reveals strong and well-crafted opinions that restrain government action on pollution and wild habitat safeguards.

The DC Circuit Court is the second most important court in the country, after the Supreme Court. Kavanaugh has written about 300 opinions, of which perhaps a quarter either dealt directly with environmental law or concerned administrative law — that is, issues that relate to how government agencies like the EPA interpret and implement legislative statutes.

Kavanaugh styles himself after the late Justice Scalia, who called himself a textualist or a strict constructionist, explains Vermont law professor Pat Parenteau.

"He looks to the text of a statute when he's asked to interpret it, and if the text isn't clear enough, oftentimes he will rule against an agency's interpretation," Parenteau says.

"In the environmental arena, that oftentimes means that rules written to increase the level of protection for public health and the environment don't often fit squarely within the plain text of a statute," Parenteau continues. "Statutes are [often] general and vague. Agencies try to interpret them as best they can."

Kavanaugh believes government agencies require explicit direction from Congress when it comes to writing rules that impose costs on American businesses, so he tends to rule against environmental laws that offer broad protections to public health or the environment, Parenteau says.

While still on the Circuit Court, for example, Kavanaugh ruled that EPA does not have the authority to require a substitute chemical used in refrigerants and fire prevention devices that have been found to be a potent greenhouse gas. EPA had adopted the use of this chemical because it doesn't deplete the ozone layer but then decided that substituting a greenhouse gas for an ozone-depleting gas was not good policy.

"Kavanaugh looked at the language of the Clean Air Act and said, 'No, EPA's authority is limited to substituting one ozone deplete for another, but it can't take climate change into account when it looks at alternatives,'" Parenteau explains.

"That's an example of a very strict approach to interpreting the law, the net result of which is that a virulent greenhouse gas is now on the market that was supposed to be a remedy for ozone depletion — but now it's going to cause climate change."

With Justice Neil Gorsuch and now Kavanaugh solidifying the conservative wing of the court, any close statutory or constitutional questions that might have previously come down 5 to 4 in favor of broader environmental protections will likely swing the other way, Parenteau says.

Consequently, in terms of the US government's ability to address the threat of climate change in the coming years, "we have to be realistic," Parenteau believes.

"If we're going to make any progress on climate change in the United States, it's going to have to come through the legislative process," he maintains.

"That means a change in the makeup of Congress, both the House and the Senate. Under the current majority, there really is no realistic hope, I don't believe, of meaningful action on climate change," Parenteau says. "It's going to take a major change in electoral politics in the United States. We may begin to see some of that in the mid-term elections in November. Frankly, I hope we do, but time is short and I don't think we can rely on the courts in the United States ... to deliver the kind of relief we need."

## Salt Lake Tribune: Office and retail space, along with thousands of housing units, to rise at once-polluted Sharon Steel site in Midvale

<https://www.sltrib.com/news/2018/10/23/office-retail-space-along/>

By Tony Semerad- October 23, 2018

Midvale • In announcing plans for a huge new mixed-use development on the once-polluted former Sharon Steel site in Midvale, leaders said Monday the city had turned a 30-year problem into a source of immense economic promise.

Officials said developers with the Salt Lake City-based Gardner Co. and Wasatch Group will build a 265-acre residential and commercial project on the environmental cleanup site, with a redevelopment dubbed Jordan Bluffs.

The project is slated to bring more than 1 million square feet of additional office space to Midvale in a series of six-story towers, along with thousands of multistory apartments and town homes, all built around a milelong linear park running parallel to the Jordan River.

This would be a second phase to the successful View 72, another development farther north at Bingham Junction, currently a fast-selling housing, office and retail cluster on 351 acres atop what was once a Superfund slag heap.

Covering 7 percent of Midvale's total footprint all by itself, the second phase at Jordan Bluffs will bring added employment, vital intellectual capital and accelerated economic growth for the suburban community, said Mayor Robert Hale.

"We envision a great community expansion occurring here," Hale told a crowd of about 100 officials huddled at a rainy celebration on the barren building site, with its sweeping views of the Oquirrh and Wasatch mountains.

But Midvale, the mayor said, didn't do it alone.

This phase of View 72 also represents a crucial handoff between the city, private developers and the U.S. Environmental Protection Agency, which once listed both the Midvale slag heap and the metals-contaminated Sharon Steel site on its top national priorities for Superfund cleanup.

Decades after alarm first grew over arsenic traces in area groundwater and neighbors using tainted soil from the contaminated site in their gardens, a top EPA official said Monday's celebration came only after painstaking collaboration involved in the environmental cleanup.

## Daily Caller: ENVIRONMENTALISTS SUE TRUMP FOR ROLLING BACK ANOTHER OBAMA-ERA RULE TARGETING COAL

<https://dailycaller.com/2018/10/22/activists-trump-lawsuit-coal/>

Chris White 10/22/2018

Environmentalists are suing the Environmental Protection Agency (EPA) for rolling back a slew of Obama-era environmental regulations that governed how coal companies dispose of waste products.

Activists associated with Earthjustice and others filed a lawsuit Monday against the EPA after the agency dinged a set of rules the president believes hurts coal companies. The 2015 regulation was the first ever to target coal ash, a toxic byproduct left over from burning coal.

The EPA amended the regulation in July, giving state governments and utilities more flexibility and saving tens of millions in annual costs. The change granted state directors the authority to suspend groundwater monitoring requirements if there is no evidence that the byproduct will leak into nearby waterways.

State directors are only given this privilege if they are in a state with an approved coal ash permit program. Other amendments have also been pushed through, giving state regulators the ability to tailor requirements depending on the site. (RELATED: Trump's EPA Lets Oklahoma Become First State to Regulate Coal Ash Disposal)

Activists worry major hurricanes and other weather-related disasters pose too big of a risk for such amendments.

"The risk that legacy impoundments and insufficiently lined coal ash ponds pose is too great to let another hurricane season go by without addressing the problem," Thomas Cmar, the lead Earthjustice attorney in the case, said in a press statement announcing the lawsuit.

The U.S. flag flies on Campbell Transportation's towboat M.K. McNally as it passes the W. H. Sammis Power Plant, a coal-fired power-plant owned by FirstEnergy, along the Ohio River in Stratton, Ohio, U.S., September 10, 2017.

REUTERS/Brian Snyder

He referred to a case in September when Hurricane Florence caused some coal ash to seep into a North Carolina river. Pollutant levels in the river had not exceeded state maximums, according to state tests administered after the hurricane rolled across the state.

This isn't the first time the Trump administration has made major changes to coal ash regulations. The EPA granted Oklahoma the ability to manage its own coal combustion residual program in June — the first state in the U.S. given the authority to do so.

## Pittsburg Post Gazette: What Trump's EPA chief won't tell you at tomorrow's shale conference

*Hopefully, EPA Administrator Andrew Wheeler will back off his ill-fated proposal to roll back federal methane rules*  
<http://www.post-gazette.com/opinion/Op-Ed/2018/10/23/Dan-Grossman-Andrew-Wheeler-EPA-Donald-Trump-shale-conference-pollution/stories/201810230029>

DAN GROSSMAN- OCT 23, 2018

Tomorrow, Andrew Wheeler, the acting head of the Environmental Protection Agency (EPA) under President Trump, will address a crowd of oil and gas enthusiasts at the annual Shale Insight conference in Pittsburgh.

This is not the first Mr. Wheeler, who was a coal lobbyist before he took the helm at the EPA, has rubbed elbows with some of the biggest names in the oil and gas industry. In July, as part of his first order of business, he met with and toured a facility belonging to Range Resources — the largest oil and gas operator in Pennsylvania — where he touted the industry's positive impact on the economy.

Absent from his remarks was any mention of the health and climate impacts of oil and gas development in the state — though protecting public health is the mission of the agency he heads. Nor did he mention the detrimental impacts of his current efforts to roll back environmental protections.

That's a big problem for Pennsylvania, which, as the second-largest natural gas producing state in the country, is also a major source of methane pollution — the potent greenhouse gas causing about 25 percent of global warming we are experiencing today.

A report released last week by the Intergovernmental Panel on Climate Change warned of dire consequences if we don't take urgent steps to slow down global warming. We are, in fact, already seeing the devastating impacts of super storms fueled by climate change.

The oil and gas sector is the largest industrial source of methane emissions in the United States. And yet, those in attendance at this year's shale conference are unlikely to hear anything from Mr. Wheeler about the need to control these potent emissions.

That's because, rather than maintaining and enforcing commonsense and cost-effective standards to reduce methane pollution, Mr. Wheeler is working to dismantle them in the face of overwhelming science and economics demonstrating their cost-effectiveness. Mr. Wheeler and his defenders often point to voluntary measures by industry to reduce emissions as sufficient to address the methane problem — essentially leaving our nation's fate in the hands of oil and gas companies, at the expense of millions of peoples' health and our environment.

To be clear, some companies are on the right side of the methane issue. Shell, BP and ExxonMobil have all agreed to take some impressive steps to control their emissions to varying degrees. But these companies are the exceptions, not the rule. None of Pennsylvania's largest oil and gas producers has made similar commitments. Left to their own devices, most operators simply won't step up to control pollution voluntarily.

The proof is in the EPA's own data, which showed recently that last year oil and gas companies made virtually no progress toward reducing methane emissions from oil and gas production. That's too bad. Cutting methane is the low-hanging fruit of the climate change tree. Finding and fixing methane leaks is extremely cost-effective since it helps deliver more natural gas to consumers. The International Energy Agency estimates that half of global oil and gas methane emissions could be eliminated at no net cost to operators.



A number of energy-producing states already understand this. California, Colorado and Wyoming have had emissions standards for oil and gas operations on the books for years, and none has experienced any kind of economic turmoil unfold as a result. California has the single largest economy in the U.S., and Colorado recently experienced record-breaking production levels while employment in the oil and gas sector remains strong. Even dark-red Wyoming is currently expanding its emission control requirements.

Pennsylvania has made some progress to control methane emissions from new development, but significantly more will be needed to control pollution from the hundreds of thousands of existing sources of methane across the state. Governor Tom Wolf should be lauded for his commitment to adopt an existing source rule in the Keystone State.

Hopefully, Mr. Wheeler will back off his ill-fated proposal to roll back federal methane rules. If not, it will be up to Pennsylvania leaders to be our communities' last line of defense.

# Environmental Working Group: Asbestos Imports Surge as Trump White House Moves to Keep Deadly Carcinogen Legal

*New Government Data: Asbestos Imports Rise 2,000 Percent Between July and August*

<https://www.ewg.org/release/asbestos-imports-surge-trump-white-house-moves-keep-deadly-carcinogen-legal>

Alex Formuzis- TUESDAY, OCTOBER 23, 2018

WASHINGTON – Asbestos imports to the U.S. soared by nearly 2,000 percent between July and August, according to federal import data analyzed by the Asbestos Disease Awareness Organization (ADAO) and Environmental Working Group.

According to the U.S. International Trade Commission and the Department of Commerce, in August alone, the U.S. imported 272 metric tons of asbestos, compared to 13 metric tons in July.

The striking increase is a major indicator that industry is not concerned about President Trump and the Environmental Protection Agency (EPA) taking any steps to ban or even reduce the use and import of asbestos.

As the U.S. Geological Survey reported, the only remaining user of raw asbestos in the U.S. is the chlor-alkali industry, which uses it to make semipermeable asbestos diaphragms needed in the manufacturing of chlorine and sodium chloride.

The EPA was given new powers to ban and restrict dangerous substances like asbestos when Congress passed legislation in 2016 overhauling the federal Toxic Substances Control Act, or TSCA.

Asbestos is one of the first 10 substances the EPA is assessing for safety following the updates made to the revamped chemicals law. Although the EPA has not yet made a decision about the safety of asbestos under the new TSCA, recent actions by the Trump administration lay the groundwork for the agency to find that asbestos is safe and should remain legal.

Last week, the White House released its Fall 2018 deregulatory agenda, further indicating that Trump's EPA, under acting Administrator Andrew Wheeler, has no plans to implement a ban of asbestos.

The last asbestos mine in the U.S. closed in 2002, forcing the chlor-alkali industry and other users to rely on imports.

In 2017, all of the asbestos imported into and used in the U.S. came from Brazil. Between January and August of this year, the industry spent nearly \$1 million to import 555 metric tons of asbestos from Brazil and Russia. Last year, the U.S. imported more than 341 metric tons of asbestos, and 2018 imports are expected to double.

Source: International Trade Commission

Lobbyists from the American Chemistry Council, working on behalf of the chlor-alkali industry, are now pushing the Trump administration for an exemption from the new chemical safety law that would allow it to continue to import and use asbestos just as it does today.

Analysis of federal data from the Centers for Disease Control and Prevention suggests that asbestos-triggered diseases kill an estimated 15,000 Americans a year. A recent study led by Jukka Takala, president of the International Commission

on Occupational Health, found that the death toll from asbestos exposure may be much higher, at nearly 40,000 Americans a year and more than 255,000 a year worldwide.

“It is clear that under the Trump administration, U.S. asbestos imports and use are not decreasing. The science is irrefutable, there is no safe level of asbestos exposure or controlled use. Clearly, the chlor-alkali industry is lobbying for another exemption,” said Linda Reinstein, president and co-founder of the Asbestos Disease Awareness Organization.

“It is appalling that unlike more than 60 nations around the world, the U.S. not only fails to ban asbestos, but allows imports to increase,” Reinstein said. “Americans cannot identify or manage the risks of asbestos. The time is now for the EPA to say no to the asbestos industry and finally ban asbestos without exemptions.”

“If virtually anyone other than Donald Trump were president, EPA would be following the law and moving to ban asbestos to protect public health,” said EWG President Ken Cook. “When most people learn that asbestos remains legal even after it’s claimed the lives of countless Americans, they’re shocked. And when the public finds out the Trump administration is actively working to keep it legal, they are furious.”

Earlier this year, ADAO and EWG discovered that Russia’s largest asbestos producer, with close ties to Vladimir Putin, is wrapping its products in packaging adorned with President Trump’s image. The company posted on Facebook a photo of pallets of asbestos with this caption:

Donald is on our side! ... He supported the head of the United States Environmental Protection Agency, Scott Pruitt, who stated that his agency would no longer deal with negative effects potentially derived from products containing asbestos. Donald Trump supported a specialist and called asbestos “100% safe after application.”

According to the U.S. Geological Survey, in 2016, roughly 95 percent of the asbestos imported into the U.S. came from Brazil, with the rest coming from Russia.

But in November 2017, Brazil joined more than 60 other nations and banned asbestos. Brazil’s ban, which will be in full effect soon, leaves Russia, Kazakhstan and China as the world’s dominant asbestos producers. With Brazil poised to no longer provide the vast majority of asbestos to the U.S., Russia and Kazakhstan could fill the void.

## **Reuters: Iowa lawmaker urges EPA to speed up rule expanding ethanol sales**

<https://www.reuters.com/article/us-usa-ethanol-epa-senator/iowa-lawmaker-urges-epa-to-speed-up-rule-expanding-ethanol-sales-idUSKCN1MX2ET>

October 23, 2018

WASHINGTON (Reuters) - Republican Senator Chuck Grassley said on Tuesday that the U.S. Environmental Protection Agency must act quickly to allow year-round sales of higher ethanol gasoline blends if President Donald Trump aims to keep a campaign promise to corn farmers.

Trump announced during a trip to Iowa this month his intention to lift the summertime ban on sales of so-called E15 gasoline to help corn growers stung by slumping prices.

The EPA has since said it will finish deliberations on a proposal to lift the ban by May, a timeline the administration hopes will put the rule in place before summer. But Grassley said that was too slow.

“EPA ought to speed it up. Otherwise it is going to look like the President wasn’t serious in his announcement,” he told a weekly conference call.

“We don’t need a lot of bureaucratic red tape with something that has been discussed in Washington for four to five years, and discussed... specifically with EPA and face-to-face with the President for about a year,” he said.

Trump’s announcement encouraged farmers eager to expand the market for corn-based ethanol, and was seen as a political victory for Trump ahead of congressional elections in November.

The EPA’s ban on summer E15 sales was initially intended to reduce smog, but academic studies have concluded that the ban is ineffective at improving air quality.

Trump’s move, however, is likely to face pushback from the oil industry, which has long opposed the rule change since it would cut into its share of the petroleum market. The industry has threatened to sue over the issue.

Some industry experts say the administration will ultimately need an act of the Congress to change the rule. EPA acting chief Andrew Wheeler, however, rejected that idea earlier this month, saying the agency has the authority to move ahead alone.

ADAO and EWG Findings: Asbestos Imports Surge as Trump White House Moves to Keep Deadly Carcinogen Legal  
<https://www.businesswire.com/news/home/20181023005982/en/>  
October 23, 2018 v

WASHINGTON--(Business Wire)--The Asbestos Disease Awareness Organization (ADAO) and Environmental Working Group (EWG) today announced findings according to federal import data analyzed by both groups, that asbestos imports to the U.S. soared by nearly 2,000 percent between July and August.

According to the U.S. International Trade Commission and the Department of Commerce, in August alone, the U.S. imported 272 metric tons of asbestos, compared to 13 metric tons in July.

The striking increase is a major indicator that industry is not concerned about President Trump and the Environmental Protection Agency (EPA) taking any steps to ban or even reduce the use and import of asbestos.

As the U.S. Geological Survey reported, the only remaining user of raw asbestos in the U.S. is the chlor-alkali industry, which uses it to make semipermeable asbestos diaphragms needed in the manufacturing of chlorine and sodium chloride.

The EPA was given new powers to ban and restrict dangerous substances like asbestos when Congress passed legislation in 2016 overhauling the federal Toxic Substances Control Act, or TSCA.

Asbestos is one of the first 10 substances the EPA is assessing for safety following the updates made to the revamped chemicals law. Although the EPA has not yet made a decision about the safety of asbestos under the new TSCA, recent actions by the Trump administration lay the groundwork for the agency to find that asbestos is safe and should remain legal.

Last week, the White House released its Fall 2018 deregulatory agenda, further indicating that Trump's EPA, under acting Administrator Andrew Wheeler, has no plans to implement a ban of asbestos.

The last asbestos mine in the U.S. closed in 2002, forcing the chlor-alkali industry and other users to rely on imports.

In 2017, all of the asbestos imported into and used in the U.S. came from Brazil. Between January and August of this year, the industry spent nearly \$1 million to import 555 metric tons of asbestos from Brazil and Russia. Last year, the U.S. imported more than 341 metric tons of asbestos, and 2018 imports are expected to double.

Lobbyists from the American Chemistry Council, working on behalf of the chlor-alkali industry, are now pushing the Trump administration for an exemption from the new chemical safety law that would allow it to continue to import and use asbestos just as it does today.

Analysis of federal data from the Centers for Disease Control and Prevention suggests that asbestos-triggered diseases kill an estimated 15,000 Americans a year. A recent study led by Jukka Takala, president of the International Commission on Occupational Health, found that the death toll from asbestos exposure may be much higher, at nearly 40,000 Americans a year and more than 255,000 a year worldwide.

"It is clear that under the Trump administration, U.S. asbestos imports and use are not decreasing. The science is irrefutable, there is no safe level of asbestos exposure or controlled use. Clearly, the chlor-alkali industry is lobbying for another exemption," said Linda Reinstein, president and co-founder of the Asbestos Disease Awareness Organization.

“It is appalling that unlike more than 60 nations around the world, the U.S. not only fails to ban asbestos, but allows imports to increase,” Reinstein said. “Americans cannot identify or manage the risks of asbestos. The time is now for the EPA to say no to the asbestos industry and finally ban asbestos without exemptions.”

“If virtually anyone other than Donald Trump were president, EPA would be following the law and moving to ban asbestos to protect public health,” said EWG President Ken Cook. “When most people learn that asbestos remains legal even after it’s claimed the lives of countless Americans, they’re shocked. And when the public finds out the Trump administration is actively working to keep it legal, they are furious.”

Earlier this year, ADAO and EWG discovered that Russia’s largest asbestos producer, with close ties to Vladimir Putin, is wrapping its products in packaging adorned with President Trump’s image. The company posted on Facebook a photo of pallets of asbestos with this caption:

Donald is on our side! ... He supported the head of the United States Environmental Protection Agency, Scott Pruitt, who stated that his agency would no longer deal with negative effects potentially derived from products containing asbestos. Donald Trump supported a specialist and called asbestos “100% safe after application.”

According to the U.S. Geological Survey, in 2016, roughly 95 percent of the asbestos imported into the U.S. came from Brazil, with the rest coming from Russia.

But in November 2017, Brazil joined more than 60 other nations and banned asbestos. Brazil’s ban, which will be in full effect soon, leaves Russia, Kazakhstan and China as the world’s dominant asbestos producers. With Brazil poised to no longer provide the vast majority of asbestos to the U.S., Russia and Kazakhstan could fill the void.

#### About the Asbestos Disease Awareness Organization

The Asbestos Disease Awareness Organization (ADAO) was founded by asbestos victims and their families in 2004. ADAO is the largest non-profit in the U.S. dedicated to providing asbestos victims and concerned citizens with a united voice through our education, advocacy, and community initiatives. ADAO seeks to raise public awareness about the dangers of asbestos exposure, advocate for an asbestos ban, and protect asbestos victims’ civil rights. For more information,

# Environmental Defense Fund: New EPA data confirms methane emissions not declining fast enough

<http://blogs.edf.org/energyexchange/2018/10/23/new-epa-data-confirms-methane-emissions-not-declining-fast-enough/>

By David Lyon / Bio / Published: October 23, 2018

Last week EPA released its annual data from large emitters, called the Greenhouse Gas Reporting Program (GHGRP). It is not a comprehensive account of all methane emissions (for that, check out our methane synthesis paper published earlier this year) but it does provide us with an important snapshot of 2017 oil and gas methane emissions.

## Reduction trend not nearly enough

The Greenhouse Gas Reporting Program provides insights of trends in emission trajectories, especially in specific states and regions.

A look at those trends shows we are not cutting oil and gas methane emissions nearly fast enough to help avoid the most catastrophic impacts of climate change, a fact that was reinforced by the recent IPCC special report on global warming.

Specifically, the GHGRP found large oil and gas facilities reported emitting 3.5 million metric tons of methane in 2017. Although reported methane emissions declined about seven percent from 2016 to 2017, emissions remain high for many segments, particularly onshore production, which declined by less than one percent to 1.8 million tons.

The GHGRP also found total emissions from the oil and gas industry, including carbon dioxide and nitrous oxide, increased about one percent during that time period.

It is important to remember that the GHGRP is not a comprehensive estimate of methane emissions. First, it excludes facilities under the reporting threshold, which means the vast majority of operators do not report their emissions. Second, the GHGRP requires operators to estimate emissions with methods that mainly rely on bottom-up approaches such as emission factors. Several published studies have compared top-down and bottom-up estimates to demonstrate that GHGRP methods tend to underestimate emissions. (Learn more about top-down v. bottom-up measurements [here](#).)

## Trump policies mean more emissions

These numbers are from 2017, and therefore should include over five months of compliance with EPA's methane pollution rules for new and modified facilities.

Unfortunately, any small downturn in emissions seen here could be wiped out by the Trump administration's ongoing effort to roll back these rules. American communities – and our climate – need more protection from oil and gas pollution, not less.

## A deep dive into the numbers

While the topline onshore oil and gas methane emissions numbers were similar to last year, breaking down the numbers shows some concerning trends.

Emission estimates from completions (gas flowback after hydraulically fracturing a well) and workovers (refracturing a well) emissions increased 93 percent from the year before. This counters an earlier trend showing a promising decrease in completion emissions, following 2012 rules from EPA requiring companies to reduce emissions during completions, known as 'green completions.' While some of the increase is due to more wells being completed in 2017, there was also increase in the average emissions per completion, which may indicate companies are less effective with their controls.

Associated gas venting and flaring, the waste of gas from co-producing oil wells, also increased from 2016 to 2017. In most basins, operators decreased the amount of wasted gas, but the two basins responsible for 80 percent of these emissions, the Permian and Bakken, had a one-third increase. It is critical for operators in these highly active regions to decrease flaring and venting, that includes taking steps such as installing adequate gas gathering infrastructure before drilling wells.

The oil and gas industry needs to get their emissions under control, and that means way down, if the industry is going to stay competitive in today's energy landscape. Unfortunately, both the Trump administration proposal to gut methane rules and these new GHGRP data show the industry has a long way to go.



## Bloomberg: EPA Can Beat Court Review on Chemical Plant Rollback: Official

<https://news.bloombergenvironment.com/safety/epa-can-beat-court-review-on-chemical-plant-rollback-official>

Sam Pearson: Oct. 23, 2018, 1:45 PM

- Top political appointee says legal flaws surmountable
- Final risk management program rule due in January

Trump administration regulators are working harder to make sure changes to Obama-era chemical facility safety rules hold up in court, the top EPA political official overseeing the effort said Oct. 23.

Steven Cook, deputy assistant administrator for the Office of Land and Emergency Management, said the agency will overcome a court decision in August that questioned its basis for halting the former administration's work. Cook previously served as senior corporate counsel at LyondellBasell Industries N.V., a plastics, chemicals, and refining company, before joining the EPA in February.

The U.S. Court of Appeals for the District of Columbia Circuit ruled Aug. 17 the agency exceeded its authority in delaying the rule, a set of safety standards aimed at keeping first responders and communities near chemical facilities safe. Since then, parts of the old rule have taken effect at about 12,500 facilities using high-risk chemicals, but compliance deadlines for the most far-reaching provisions remain years away.

Although the judges ended the delay, the EPA still will replace the rule (RIN:2050-AG95), Cook said at the Process Safety Summit, a forum of industry representatives in Washington.

The agency is committed to "getting a final rule done, and done in a way that we believe will actually survive scrutiny by the courts," Cook said.

His comments echo the timeline set out in the EPA's fall regulatory agenda released Oct. 17, which described issuing the changes by January.

The legal flaws that doomed the agency before the D.C. Circuit are surprising but surmountable, Cook said.

"A lot of the problems that the agency had was a lack of explanation about conclusions," Cook said. "In my prior life, I lost cases to the federal government based on a single paragraph of a Federal Register preamble. It was considered sufficient explanation by the agency. I think those days are gone."

## Associated Press: EPA proposes scaling back cleanup of Portland Harbor

[https://www.washingtonpost.com/national/energy-environment/epa-proposes-scaling-back-cleanup-of-portland-harbor/2018/10/23/09673714-d6f6-11e8-8384-bcc5492fef49\\_story.html?utm\\_term=.6652a10cd34f](https://www.washingtonpost.com/national/energy-environment/epa-proposes-scaling-back-cleanup-of-portland-harbor/2018/10/23/09673714-d6f6-11e8-8384-bcc5492fef49_story.html?utm_term=.6652a10cd34f)

By Associated Press October 23 at 3:01 PM

PORTLAND, Ore. — The U.S. Environmental Protection Agency has proposed to scale back the scope and cost of a planned \$1 billion cleanup of a 10-mile (16-kilometer) stretch of Oregon's Willamette River as it winds through Portland's industrial area.

Five years of research shows one contaminant in the Portland Harbor is less toxic than previously thought and scaling back cleanup plans for that contaminant could reduce the cost of the overall project by \$35 million, the agency said Monday.

The cancer-causing chemical in question is benzo(a)pyrene and comes from burning things like coal and oil. It's part of a larger class of pollutants known as poly aromatic hydrocarbons, or PAH.

The Portland Harbor Superfund site is highly contaminated with dozens of pollutants from a century of industrial activity.

The EPA spent 16 years developing a \$1 billion cleanup plan for the site.

"Today's proposal ensures that the cleanup plan is current with the latest science to protect people's health and the environment," acting EPA Administrator Andrew Wheeler said in the statement. "We are moving the cleanup forward to return the Lower Willamette to a healthier working waterway for all."

The proposal changes the target levels for certain PAHs in the river's beaches and sediment, so the cleanup will require less dredging and capping of soil. It also will shrink the footprint of the overall cleanup area by about 17 acres (7 hectares) out of the total 2,200 acres (3.5 sq. miles), according to the EPA.

Portland Harbor project manager Sean Sheldrake told Oregon Public Broadcasting that it's unusual for new research to show that a chemical is less toxic than previously thought.

"Where we thought we had to do more to make things safe with respect to this chemical we can actually do less active cleanup," he said. "The state of the science is indicating it's not as hazardous as we previously thought."

Sheldrake said the findings don't mean there won't be any cleanup of PAHs in the river, but there will be less than planned.

"Adjustments in our level of knowledge of toxicity do happen regularly," he said. "It just usually doesn't go in this direction."

Bob Sallinger, conservation director with the Portland Audubon Society, said his group believes additional cleanup is needed and he's upset with the EPA. "We were hopeful we were moving into the cleanup phase now," he said. "This feels like a big step backward. It weakens the plan."

The EPA extended the public comment period on the proposal to Dec. 21, OPB reported.



## Daily Caller: TRUMP'S EPA IS UPDATING DECADES-OLD LEAD RULES DESPITE JILTED OFFICIAL'S CLAIMS

<https://dailycaller.com/2018/10/23/epa-lead-rule-drinking-water/>

Chris White | 11:54 AM 10/23/2018

The Environmental Protection Agency is promoting a new plan to reduce lead in drinking water even as a jilted former official argues the agency is trying to phase out any projects designed to tackle exposure.

The agency is in the process of overhauling a decades-old rule regulating levels of lead and copper in drinking water, EPA Interim Administrator Andrew Wheeler said in a statement in October. His plan is in-keeping with that of his predecessor's mission of revamping the country's lead rules.

"We are in the process of completing several important actions to combat lead poisoning, such as publishing the new joint federal lead strategy, strengthening the dust-lead hazard standards, and overhauling the lead and copper rule for the first time in over two decades," Wheeler said.

His announcement comes as Ruth Etzel, who is on leave from her role as director of the Office of Children's Health Protection (OCHP), claims the agency is not taking such rules seriously. She was pulled from service following "serious" allegations leveled against her, according to recent reports.

Etzel attacked the "war on lead" initiative that former EPA Administrator Scott Pruitt announced in 2017 response to what many in the media characterize as a lead crisis in Flint, Michigan. Pruitt was unable to follow through on that portion of his agenda after reports surfaced detailing his use of private jets.

"My sense is that the government has absolutely no intention of taking any action toward seriously changing lead in children's environments," Etzel said in an Oct. 15 interview on CBS. "It basically means that our kids will continue to be poisoned," she added. (RELATED: 'It's Unfortunate': EPA Says Jilted Official Is Spreading Fake News About Her Suspension)

The Flint Water Plant tower is seen in Flint, Michigan, U.S. on Feb. 7, 2016. REUTERS/Rebecca Cook/File Photo

The Obama administration kickstarted the revision process for the Lead and Copper Rule in 2010 and accelerated the effort following the Flint debacle, which started in 2014 when poorly treated drinking water corroded pipes and dramatically elevated lead levels in the city.

The rule was last revised in 1991. Its requirements include that water utilities put anti-corrosion additives into water and set a non-enforceable goal of zero lead in drinking water, a move many believe to be impossible without massive amounts of taxpayer dollars directed toward replacing water pipelines.

## The Hill: Trump may formally tap Wheeler to lead EPA

<https://thehill.com/policy/energy-environment/412815-trump-may-formally-tap-wheeler-to-lead-epa>

BY TIMOTHY CAMA - 10/23/18 04:18 PM EDT

President Trump indicated Tuesday that he might nominate current acting Environmental Protection Agency (EPA) chief Andrew Wheeler to be the agency's official head.

Wheeler was nominated and confirmed by the Senate to be deputy administrator, and took over the top job on an acting basis in July when former head Scott Pruitt resigned amid spending and ethics scandals.

But at a White House event Tuesday, Trump said he might want Wheeler to be able to drop the "acting" title.

"He's acting, but he's doing well, right? So maybe he won't be so acting so long," Trump said when calling Wheeler up to the stage at the State Leadership Day Conference.

"Especially if he gets this done," he said, going on to explain an issue that a Texas port has had in getting permits to dredge their port facilities.

Wheeler was a lobbyist and consultant at Faegre Baker Daniels for many energy clients before taking the EPA job earlier this year, including coal miner Murray Energy Corp. Before that, he worked for Sen. Jim Inhofe (R-Okla.) and as a career employee at EPA.

Wheeler is limited to 210 days as acting EPA administrator. But a legal provision that applies specifically to EPA might give him the ability to stay in the position longer if needed.

He would have to go through another Senate confirmation process if Trump wanted him to take the administrator job on a non-acting basis.